



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

767

PAUL R. LEPAGE
GOVERNOR

PATRICIA AHO
COMMISSIONER

MEMORANDUM

To: Board of Environmental Protection

From: Cynthia Bertocci, Board Executive Analyst *CB*

Date: April 11, 2012

Re: Appeal by Michelle and Joseph Greenier of the Decision by the Board Chair Dismissing the Greenier's Appeal of Department Order # S-007713-WD-BB-A, amendment to Verso Bucksport Special Waste Landfill License

Statutory and regulatory references:

The Department's *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2 (last amended April 1, 2003) governs, among other things, the processing of applications and appeals of Commissioner licensing decisions.

Project location: Off Route 15 in Bucksport, Maine

Project description: Verso Bucksport owns and operates a pulp and paper mill and a special waste landfill in Bucksport, Maine. It received an amendment to its special waste landfill license (Department order # S-007713-WD-BB-A) on January 18, 2012. This amendment approved an increase in the licensed final elevation of the landfill by 46 feet. The proposal included construction of a liner system on top of 24 acres of the existing landfill with leak detection and leachate collection; additional waste disposed to reach the new final elevation will be placed above this liner system. As part of the project, Verso also proposed to regrade the north slope of the landfill, place a final cover system over the north slope, evaluate the leachate collection system at the toe of the north slope, and upgrade the existing leachate pond. After receiving approval of the amendment, Verso Bucksport surrendered a license for landfill expansion that it had previously received (Department order # S-007713-WD-AD-N, dated December 22, 2000).

Procedural history: On February 22, Michelle and Joseph Greenier filed an appeal of the Department's decision to the Board of Environmental Protection and a request for public hearing. The Chair of the Board dismissed the Greeniers' appeal on March 8, 2012 finding that the Greeniers had not demonstrated that they have standing as aggrieved persons to appeal the licensing decision. On March 21, 2012, Michelle and Joseph Greenier appealed the Chair's dismissal of their appeal to the full Board.

Discussion: The Department's Chapter 2 rules (06-096 CMR 2.24.B(1)) provide that "an aggrieved person may appeal to the Board for review of the Commissioner's decision". 06-096

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CMR 2.24.B(2) states that written notice of appeal must include evidence demonstrating the appellant's standing as an aggrieved person. 06-096 CMR 2.1.B defines "aggrieved person" to mean "any person whom the Board determines may suffer particularized injury as a result of a licensing or other decision." 06-096 CMR 2.24.B(2) provides that "if the Chair decides an appellant is not an aggrieved person, the Chair may dismiss the appeal. The Chair's ruling to dismiss an appeal for lack of standing as an aggrieved person is appealable to the full Board."

The Greeniers appeal of the Verso license and their appeal of the Chair's decision to the full Board state that they, as well as all citizens of Maine, are aggrieved persons because Verso Bucksport has polluted the air and, by disposing of chemicals in the landfill, has contaminated the water supply. In addition, the Greeniers state that they, as taxpayers, are aggrieved because Verso Bucksport receives BETR and TIF funds. They also state that Joseph Greenier suffered health problems as a result of his past work at the mill and landfill.

The Chair found that, while the Greeniers set forth their concerns about past practice at the landfill and their objections to the licensing decision, the Greeniers did not submit evidence establishing an injury particular to them that would result from this project, i.e. the increase in elevation of the landfill.

Question before the Board: Are the Greeniers aggrieved persons as defined in Chapter 2, section 1(B) of the Department's rules, i.e. will they suffer a particularized injury as a result of the license amendment which allows an increase in elevation of the Verso landfill?

Presenter: Cynthia Bertocci, Board Executive Analyst

Estimated time for this agenda item: 1 hour

Packet Materials:

- Draft Board Order _____
- Map depicting location of landfill Application Figure 1-1 _____
- Area map depicting location of Greenier residence and location of Verso landfill _____
- March 8, 2012 letter from Chair Lessard dismissing the Greenier's appeal of the landfill permit _____
- March 20, 2012 letter from Michelle and Joseph Greenier appealing the Chair's dismissal of their appeal of the licensing decision _____
- February 22, 2012 appeal filed by Michelle and Joseph Greenier _____
- Licensee's reply to the Greeniers appeal of the Chair's ruling, March 30, 2012 _____
- Verso Bucksport LLC Solid Waste License Amendment, January 18, 2012 _____